

This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS SECTION 01 OF 03 GUATEMALA 000571

SIPDIS

SENSITIVE

USDOL FOR ILAB:ROBERT WHOLEY
DEPT FOR WHA/PPC, WHA/CEN AND DRL/IL

E.O. 12958: N/A

TAGS: [ELAB](#) [ETRD](#) [PGOV](#) [PINR](#) [GT](#)

SUBJECT: AMBASSADOR PRESSES LABOR AGENDA WITH NEW LABOR
MINISTER, UNION LEADERS

REF: A. GUATEMALA 555
B. GUATEMALA 511
C. GUATEMALA 414
D. GUATEMALA 221
E. GUATEMALA 191

1. (SBU) Summary: The Ambassador told Labor Minister Victor Moreira during a courtesy call March 3 that there is heightened USG interest in labor rights in Guatemala in the context of CAFTA negotiations, and urged Moreira to address cases in outstanding GSP petitions. Moreira said that his priorities include steps to prevent similar cases of labor rights violations from arising in future, but that more ambitious reforms will not be possible in an election year. Investigating violence against union leaders, reforming the labor justice system, and reinstating illegally fired workers are not directly under the labor ministry's jurisdiction. Nevertheless, at President Portillo's insistence, Moreira said he would use the urgency of CAFTA negotiations to spur what progress he could. In a separate meeting, labor union leaders urged the Ambassador to include strong labor protections in CAFTA. We will continue to press for GOG measures that respond to GSP conditions and report on progress before April 15. End Summary.

Our Labor Rights Agenda

2. (SBU) The Ambassador told Moreira that the GSP review decision is pending, and there is heightened interest in the petition in the context of CAFTA negotiations. USG concerns include: 1) the urgent need for more effective investigation of violence against unionists, especially cases of killings of labor leaders, to end the climate of impunity for anti-union violence; 2) the need to streamline and strengthen the labor justice system; and 3) the need for better enforcement of labor court rulings. Should Guatemala be put under review, the Ambassador said, Guatemala's labor rights protections will come under intense scrutiny by U.S. officials; loss of GSP privileges would affect prospects for a successful CAFTA negotiation.

3. (SBU) The Ambassador acknowledged that some of these issues fall outside the jurisdiction of the labor ministry, and mentioned his own efforts to enlist the cooperation of other GOG leaders on labor rights, including President Portillo (Ref b), the Attorney General (Refs a & d) the President of the Supreme Court (Ref c), and the Economy Minister (Ref e). The Ambassador also raised with Morales the case of workers at Finca Maria Lourdes, which is highlighted in the AFL-CIO GSP petition. This case involves a coffee plantation in Quetzaltenango department where 55 workers were illegally fired in 1995 after organizing a union. The labor courts ruled in favor of the workers and ordered reinstatement of the workers. Finca owners have repeatedly refused entry to police attempting to serve the court order. LabAtt expressed appreciation for the efforts by Moreira's predecessors to resolve difficult cases, and urged that he consider doing so in this case.

Moreira's Priorities

4. (SBU) Moreira said that he intended to use the attention to labor rights in the CAFTA talks to justify his own planned initiatives to meet ILO standards, as follows:

-- Resolve the teachers strike. (Note: The GOG made the teachers an offer on February 28 and teachers have rejected the offer but will meet with GOG negotiators (Moreira, the Education and Finance Ministers) under the facilitation of Archbishop Quezada Toruno on March 4. End Note.) Moreira said that his predecessor, ex-minister Victor Hugo Godoy, was dismissed at the Vice President's request over collusion between ministry workers and the leaders of the teachers' strike.

-- Legislation: Introduce new child labor protections; unprecedented sexual harassment legislation; a universal "no-fault" severance system (which would help unclog the

labor courts, where workers unjustly fired must petition for severance);" and reforms to permit social security coverage for domestic workers (paid for by workers, not employers);

-- Labor Justice: Moreira said that President Portillo had just called and asked him to emphasize the need for all three branches of government to cooperate to address labor rights issues. Moreira is seeking a meeting with the Supreme Court president to discuss the need for labor justice streamlining (which will require legislation) and cooperation on specific cases cited by the GSP petitions (e.g. Finca Maria Lourdes);

-- Minimum Wage-Setting Process: Review the current system for fixing the minimum wage, which has been criticized by the private sector as being unilateral on the part of the Executive;

-- Internal Reforms: He has named a third vice minister, for administrative affairs, and plans new internal regulations. Also hopes to achieve a collective bargaining agreement with ministry workers. He wants to develop a 3-5 year plan which includes budgetary needs to address the needs of the informal sector, CAFTA and longer-term necessary reforms to the labor code;

-- Civil Service Reform: Analyze the problems of multiple government personnel systems, and recommend reforms for the next government to consider;

-- Public Employee Recreation Fund: He hopes to spin this off to an autonomous institute; and,

-- Union Registration: He will offer an amnesty for fines during a six-month transition period.

15. (SBU) Moreira agreed that the Finca Maria Lourdes case, like the DYMEI case resolved in 2002, is emblematic of egregious non-enforcement of court decisions. Responsibility for addressing these cases lies in the jurisdiction of the courts. He will discuss the case with the president of the Supreme Court. Moreira said his goal as Labor Minister is to make key reforms to prevent similar cases from arising in the future. Vice Minister Antonio Monzon told the Ambassador that there had been an agreement between local authorities, fired Maria Lourdes workers and the plantation owner for talks about how to resolve the situation, in which the labor ministry is participating.

Biographic Information and Comment

16. (SBU) Moreira is a former labor leader (Secretary General of the state electricity utility union, STINDE, in the mid-90's) who was named on January 30 to replace ex-minister Victor Hugo Godoy, now rumored to be named Guatemala's next Ambassador to the OAS. Like Godoy, Moreira owes his allegiance directly to Portillo. (Note: Godoy resigned under pressure from the Vice President, after enduring constant potshots from the VP inside the Cabinet. End Note.) Moreira's relations with Reyes Lopez and Rios Montt are not known.

17. (U) Prior to becoming minister, Moreira was serving as Portillo's private sub-secretary after being named in June 2001 as GOG Commissioner for the Promotion of Transparency and Against Corruption (he complained publicly about lack of funding for that commission in February 2002, but retains the title). At the outset of the Portillo Administration Moreira served as sub-secretary of Strategic Analysis under now-Foreign Minister Edgar Gutierrez. He is a close friend of the First Lady.

18. (SBU) In May 2002, Moreira was arrested and jailed for contempt of court after failing to appear at an earlier hearing on charges which dogged him from his position as head of the business department of the electricity institute (he pleaded illness). He was released on bail after three weeks and later acquitted. (He joked to the Ambassador that given the difficulty of resolving the teachers' strike, he was better off in jail.) Moreira is reportedly a former member of the Guatemalan Workers Party (PGT) and a former member of a Marxist group called "January 6th." An economist and social scientist by training, Moreira worked on the Historical Memory Project under assassinated Bishop Gerardi and also worked for the Myrna Mack foundation. Moreira is 38 years old and his wife is half-British.

19. (SBU) Moreira's feisty ministerial approach has already raised hackles in both CACIF and organized labor. CACIF is privately furious that, after giving lip service to dialogue, he referred to management's representatives on the board of the national training institute (INTECAP) as hypocritical for being "bloodily repressive" to their own workers and characterizing the private sector in general as a "genocidal oligarchy." An intense man, Moreira gives the impression that he is spoiling for the fight with the private sector, which seems inevitable in an election year. His earlier,

more ambitious legislative package, outlined to LabAtt on February 4, seemed designed to provoke that fight, and CACIF vows to reverse anything the FRG passes that it does not like.

110. (SBU) Meanwhile, Moreira's relations with organized labor are not looking much better. Union leaders believe he was named to replace Godoy because Godoy refused to use tough tactics to bring the striking teachers to heel: the ministry has processed thousands of penalties against individual teachers for absenteeism during the strike, and labor courts have ruled the strike illegal, making strikers liable to lose their jobs and even pay damages (unlikely to enforced). Top labor leaders are also unhappy with Moreira's autocratic manner and lack of respect in tripartite meetings, and are particularly concerned about his inclusion of "no-fault" severance pay in his legislative priorities. They worry that management will use this tool to rid employee ranks of union members.

111. (SBU) Moreira strikes us as serious about protecting labor rights, but politically vulnerable and wholly dependent on Portillo's support. Clearly smarting from the bruising (and ongoing) teachers' strike and the cool reception from organized labor and private sector members of the tripartite labor policy commission, Moreira has already scaled back his agenda in the short time since taking office. We will continue to press the minister to take steps to meet GSP labor conditions, but will also need to look elsewhere for stronger allies to be assured of progress.

Union Leader Concerns

112. (SBU) The Ambassador also discussed labor rights and the GSP petitions February 13 with four prominent labor leaders: Jose Pinzon, Secretary General of the CGTG industrial union and leader of the main labor federation (UGT); Nery Barrios, Secretary General of the other main federation (UASP); Julio

SIPDIS

Coj, Secretary of the independent UNSITRAGUA federation, and Carlos Mancilla, Secretary General of the CUSG federation, also a member of the UGT. The union leaders complained about the lack of political will to support freedom of association; urged the USG to incorporate strong labor protections into the CAFTA to replace those under GSP, and thanked the USG for applying GSP conditions to leverage progress from the GOG in the past. In response to the Ambassador's question, the union leaders said U.S. multinational firms are no better than local ones at respecting the right to association (he cited the maquila sector, Coke, and Pepsi, specifically). (Note: Working conditions, including salaries, are significantly better than average in U.S. operations than elsewhere here. End Note.)

HAMILTON